

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

BILLY RAY REDDING,)	Case No. CV 12-05861-DDP (VBK)
)	
Petitioner,)	MEMORANDUM AND ORDER DISMISSING
)	PETITION FOR WRIT OF HABEAS
v.)	CORPUS
)	
AUDREY KING,)	
)	
Respondent.)	
_____)	

On July 6, 2012, Billy Ray Redding (hereinafter referred to as "Petitioner") filed a "Petition for Writ of Habeas Corpus by a Person in State Custody" in the United States District Court for the Central District of California. On January 8, 2011, in Ventura County Superior Court, Petitioner was found to be a Sexually Violent Predator ("SVP") and was committed to an indeterminate term in a state mental institution. (See Petition at 2.)

It appears conclusively from the face of the Petition that state remedies have not been exhausted. Petitioner alleges that he filed an appeal in the California Court of Appeal that is still pending. (Petition at 2.) Petitioner has not filed an appeal in the California Supreme Court; thus, the State courts have not been given an

1 opportunity to rule on Petitioner's contentions. (See Petition at 3-
2 5.)

3 A federal court will not review a state prisoner's petition for
4 writ of habeas corpus unless it appears that the prisoner has
5 exhausted available state remedies on each and every claim presented.
6 28 U.S.C. §2254(b) and (c); see O'Sullivan v. Boerckel, 526 U.S. 838,
7 842 (1999); Rose v. Lundy, 455 U.S. 509, 522 (1982). "For reasons of
8 federalism, 28 U.S.C. §2254 requires federal courts to give the states
9 an initial opportunity to correct alleged violations of its prisoners'
10 federal rights." Kellotat v. Cupp, 719 F.2d 1027, 1029 (9th Cir.
11 1983).

12 Exhaustion requires that the prisoner's contentions be fairly
13 presented to the highest court of the state. Libberton v. Ryan, 583
14 F.3d 1147, 1164 (9th Cir. 2009), cert. denied, 130 S.Ct. 3412 (2010).
15 A claim has not been fairly presented unless the prisoner has
16 described in the state court proceedings both the operative facts and
17 the federal legal theory on which his claim is based. See Anderson v.
18 Harless, 459 U.S. 4, 6 (1982); Pappageorge v. Sumner, 688 F.2d 1294
19 (9th Cir. 1982), cert. denied, 459 U.S. 1219 (1983).

20 **ACCORDINGLY, IT IS ORDERED** that the Petition be dismissed without
21 prejudice.

22
23 DATED: July 23, 2012



DEAN D. PREGERSON
UNITED STATES DISTRICT JUDGE

24
25 Presented on
26 July 11, 2012 by:

27 /s/

VICTOR B. KENTON
UNITED STATES MAGISTRATE JUDGE
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